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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of California-American Water  
Company (U210W) for Approval of the  
Monterey Peninsula Water Supply Project and  
Authorization to Recover All Present and  
Future Costs in Rates.

Application 12-04-019  
(Filed April 23, 2012)

**JOINT MOTION FOR RULING CONFIRMING PROCEDURAL SCHEDULE**

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
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Application 12-04-019  
(Filed April 23, 2012)

**JOINT MOTION FOR RULING CONFIRMING PROCEDURAL SCHEDULE**

In accordance with Rule 11.1 of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”), California-American Water Company (“California American Water”), City of Pacific Grove, Coalition of Peninsula Businesses, LandWatch Monterey County, Monterey County Farm Bureau, Monterey County Water Resources Agency, Monterey Peninsula Regional Water Authority, Monterey Peninsula Water Management District (“MPWMD”), Monterey Regional Water Pollution Control Agency (“MRWPCA”), Planning and Conservation League Foundation, Public Water Now, Salinas Valley Water Coalition, and Surfrider Foundation (collectively “Joint Parties”) hereby respectfully submit this motion seeking a ruling confirming the procedural schedule for Phase 2.<sup>1</sup>

The first milestone in the State Water Resources Control Board (“SWRCB”) June 17, 2016 Preliminary Staff Recommendation to modify the 2009 Cease and Desist Order (“CDO”)<sup>2</sup> is the Commission approval of: (1) the Water Purchase Agreement for the MPWMD/MRWPCA Pure Water Monterey Groundwater Replenishment Project (“GWR Project”); and (2) the

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<sup>1</sup> California American Water files this motion on behalf of the above-named parties and provides electronic signatures in accordance with Rule 1.8 of the Commission’s Rules of Practice and Procedure.

<sup>2</sup> See Preliminary Staff Recommendation to Modify Order WR 2009-0060 (“Staff Recommendation”), available at [http://www.waterboards.ca.gov/waterrights/water\\_issues/projects/california\\_american\\_water\\_company/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/index.shtml).

construction of the Monterey pipeline and pump station. As set forth herein, the Joint Parties seek to confirm that California American Water, MPWMD, and MRWPCA met the Commission's conditions for adopting a procedural schedule that provides for a Phase 2 Commission decision by August 18, 2016,<sup>3</sup> such that this first SWRCB milestone can be satisfied. Moreover, the Joint Parties file this motion out of an abundance of caution to confirm that the upcoming Public Participation Hearing recently scheduled in this proceeding is not intended to extend the current procedural schedule.<sup>4</sup>

The Joint Parties respectfully move for the requested ruling in advance of July 13, 2016, the current deadline for written comments to the SWRCB on the Staff Recommendation.

## **I. PROCEDURAL BACKGROUND**

On April 18, 2016, eighteen parties to this proceeding filed a Joint Motion for a Separate Phase 2 Decision ("Joint Motion"). The Joint Motion followed the Commission's announcement of further delay to the schedule for the desalination component of the Monterey Peninsula Water Supply Project ("MPWSP") and explained that a separate Phase 2 decision was necessary to allow California American Water to take full advantage of two alternative sources: (1) GWR Project; and (2) Aquifer Storage and Recovery ("ASR").<sup>5</sup> In light of the impending

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<sup>3</sup> The Joint Parties are seeking confirmation regarding the conditions for the procedural schedule only. The Joint Parties understand that having met the conditions for the procedural schedule does not mean that the Commission has granted or will grant the specific relief requested for Phase 2.

<sup>4</sup> The June 10, 2016 *Assigned Commissioner and Administrative Law Judge's Ruling Setting Workshop and Public Participation Hearing Along with Bill Insert and Newspaper Notice* ("June 10 Ruling") states that a workshop and public participation hearing will be held on September 1, 2016 during which time the "Commission will first updated that public on important aspects of the proceeding, most likely including...the current status of the proposed Water Purchase Agreement between California American Water Company and the Pure Water Monterey Project...", followed by public comment on this and other topics. (June 10 Ruling, p.1-2.)

<sup>5</sup> In the Joint Motion, the parties requested that the Commission address the following issues in a separate Phase 2 decision in advance of a decision on the Certificate of Public Convenience and Necessity: (1) the Water Purchase Agreement between California American Water, MPWMD, and MRWPCA; (2) California American Water's construction of the Monterey pipeline and pump station; and (3) financing and ratemaking related to the Monterey pipeline and pump station facilities.

CDO deadline which would greatly reduce California American Water's ability to withdraw water from the Carmel River,<sup>6</sup> a timely decision is crucial to allow California American Water to take full advantage of two alternative water sources.

On April 25, 2016, the Assigned Commissioner and Administrative Law Judge conditionally granted the Joint Motion and adopted a procedural schedule that included August 18, 2016 as the target date for the Commission's Phase 2 decision in this proceeding.<sup>7</sup> The April 25, 2016 Ruling conditioned its grant of the request for a Phase 2 decision on California American Water, MPWMD, and MRWPCA addressing certain issues and proposals in supplemental and rebuttal testimony.<sup>8</sup> These parties addressed the required issues and concerns in joint testimony served on May 9, 2016 and May 19, 2016.<sup>9</sup> An evidentiary hearing on the Phase 2 issues was held on May 26, 2016.<sup>10</sup>

On June 17, 2016, the SWRCB Staff Recommendation was issued. The Staff Recommendation proposed to extend the deadline for California American Water to terminate all

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<sup>6</sup> See SWRCB WR 20090-0060.

<sup>7</sup> *Assigned Commissioner and Administrative Law Judge's ruling Conditionally Granting Joint Motion for a Separate Phase 2 Decision and Setting Hearing*, April 25, 2016, p. 11 ("April 25 Ruling").

<sup>8</sup> April 25 Ruling, p. 5 (stating "[t]he condition is that, in addition to anything parties will present, the proposed supplemental and rebuttal testimony of applicant, District and Agency shall, and other parties may, address certain issues and proposals."). Specifically, the Ruling requires California American Water, MPWMD and MRWPCA to address the following:

- data requests and concerns raised in the April 8, 2016 Assigned Commissioner and Administrative Law Judge's Ruling
- revised Water Purchase Agreement
- cost cap to point of indifference
- higher cost cap with offsetting benefits
- access to books and records
- EIR addendum

<sup>9</sup> See JE-2, *Joint Supplemental Testimony of California American Water, Monterey Peninsula Water Management District, and Monterey Regional Water Pollution Control Agency* and JE-3, *Joint Rebuttal Testimony of California American Water, Monterey Peninsula Water Management District, and Monterey Regional Water Pollution Control Agency*.

<sup>10</sup> Issues related to the GWR Project were also addressed in previous evidentiary hearings in April 2016.

unlawful diversions from the Carmel River to December 31, 2021, as long as certain milestones were met. The first milestone is the Commission approval of: (1) the Water Purchase Agreement for the GWR Project; and (2) the construction of the Monterey pipeline and pump station. The deadline for this milestone is September 30, 2016.

## **II. REQUEST AND JUSTIFICATION**

The Joint Parties seek a ruling confirming the adoption of the procedural schedule set forth in the April 25 Ruling, which provides for a Phase 2 Commission decision by August 18, 2016. Specifically, the parties seek confirmation that California American Water, MPWMD, and MRWPCA met the conditions for the procedural schedule set forth in the April 25, 2016 Ruling and that there is no obstacle preventing the issuance of a Commission decision by August 18, 2016 in accordance with the adopted procedural schedule. This confirmation is necessary to provide assurance to the SWRCB that the first milestone and attendant deadlines in the modified Order WR 2009-0060 can be achieved. If a procedural schedule with an August 18, 2016 target date for a Phase 2 Commission decision is no longer viable, the Joint Parties need to understand this in advance of July 13, 2016, the date that comments on the Preliminary Staff Recommendation are due, so that the Joint Parties can so advise the SWRCB. Although the SWRCB deadline is September 30, 2016, using August 18, 2016 as the target date for the Commission decision is preferable in case the decision is held or there is an unforeseen delay. Moreover, as discussed in the Joint Motion, a timely decision will allow California American Water to complete construction and begin taking full advantage of the GWR Project and ASR water by December 2017.

## **III. CONCLUSION**

For the reasons stated above, this motion should be granted and a ruling should be issued confirming the adoption of a procedural schedule with an August 18, 2016 target date for a Phase 2 Commission decision.

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